IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

RSA No. 214 of 1996

Date of Decision : 9.8.2007

HPSEB & others …Appellants

Versus:

P. D. Goel …Respondent.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No*

For the appellants: Mr. Shrawan Dogra, Advocate.

For the respondent. Mr. Imran Khan, Advocate vice Mr. S.D.Gill, Advocate.

Sanjay Karol, J (Oral).

The present appeal arises out of the judgment and decree dated 26.3.1994 passed by the District Judge, Solan in Civil Appeal No. 63-S/13 of 1994 titled as P.D. Goel vs. HPSEB & Others, whereby the judgment and decree dated 6.9.1994 passed by the Senior Sub Judge, Solan in case No. 407/1 of 1990 was reversed.

Plaintiff's suit seeking declaration that the bill for consumption of electricity raised by the defendants, is illegal, null, void and not binding on the plaintiff was dismissed by the

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

trial Court vide judgment and decree dated 6.9.1994. In appeal, filed by the plaintiff, the same was reversed and the suit of the plaintiff was decreed and the defendants were restrained from disconnecting the electricity supply to the premises of the plaintiff for not paying the demand of Rs.58,135.55.

The appeal was admitted on the following substantial questions of law:-

"1. Whether suit filed by the plaintiff seeking injunction restraining the appellant from disconnecting the electric power is maintainable against the appellant?

2. That the matter with respect to the wrong billing is referable to the Arbitrator regarding the wrong billing which plaintiff has failed to recover or submit his claim to the authority under the electricity Act.

3. Whether the appellant is entitled to rectify the under value billing after rectifying the mistake committed earlier?

4. Whether the claim for rectifying the bill is justified or not?

It is admitted case of the parties that the alternate statutory remedy is available with the plaintiff. Therefore, the suit filed by the plaintiff is not maintainable in view of the decision laid down by the Apex Court in ***R.C.Tiwari*** v. ***M.P.State Coop. Marketing Federation Ltd.,*** (1997(5) SCC 125).

In this view of the matter, questions No.1 & 2 are answered accordingly and it is held that the suit filed by the plaintiff at the first instance was not maintainable. Consequently, the judgment and decree passed by the first Appellate Court is

set aside and that of the trial Court is restored. In this view of the matter, there is no need to answer other questions of law framed. The appeal is allowed accordingly.

(Sanjay Karol),
Judge.

August 9, 2007.
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